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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,388	11/24/2000	Nobutaka Yamamoto	001554	3765

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EXAMINER

KATCHEVES, KONSTANTINA T

ART UNIT	PAPER NUMBER
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1636

DATE MAILED: 04/08/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/718,388

Applicant(s)

YAMAMOTO ET AL.

Examiner

Konstantina Katcheves

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/25/02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-15 are pending in the instant application.

Response to Amendment

The rejection of claims 1-16 under 35 U.S.C. 112, second paragraph has been withdrawn in view of Applicant's Amendment filed 25 January 2002.

Claims 1-16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Green et al. (US Patent No. 4,016,036) (hereinafter "Green") for the reasons of record set forth in the Office Action mailed 26 October 2001.

The rejection of claims 1-9 and 11-15 under 35 U.S.C. 102(b) as being anticipated by Makitsubo (EP 0 168 217) has been withdrawn in view of Applicant's Amendment. Makitsubo fails to disclose that the cells are cultured in the same culture vessel as claimed by Applicant. In fact, Makitsubo on page 6 specifically discloses that cells are removed from a petri dish then suspended with the other cells in separate culture vessel.

Response to Arguments

Claims 1-16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Green et al. (US Patent No. 4,016,036) (hereinafter "Green") for the reasons of record set forth in the Office Action mailed 26 October 2001.

Applicant argues that Green provides no mention or description of killing of fibroblasts and thus does not anticipate the instant invention. Applicant asserts that Green treats the fibroblast cells with radiation, to prevent their multiplication, however, does not teach the killing of these cells.

Applicant's arguments with respect to Green are noted however not found persuasive. First, Applicant should note that the claims are extremely broad in scope and read on any method that discloses the inoculating, culturing, and killing of fibroblast cells in a culture vessel. Green discloses a method wherein fibroblast cells are treated with radiation to prevent their multiplication and growth in a culture vessel. Green discloses in column 2 lines 50 that fibroblast cells or fibroblast cell products are necessary for the growth and differentiation of keratinocytes. Green also states that a culture containing non-growing keratinocytes, such as those irradiated to the extent that multiplication is prevented, can suppress keratinocyte proliferation and that fibroblast cell products are not sufficient to inhibit keratinocyte proliferation. Moreover, Applicant has mischaracterized Green as failing to teach the killing of fibroblast cells. Green, in fact, specifically discloses that 3T3 fibroblast cells were "lethally irradiated" to support the growth of Teratoma cells. See column 7, Example 2. Thus, Green anticipates Applicant's claimed invention.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konstantina Katcheves whose telephone number is (703) 305-1999. The examiner can normally be reached on Monday through Friday 7:30 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Remy Yucel, Ph.D. can be reached on (703) 305-1998. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3014 for regular communications and (703) 305-7939 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3388.

Konstantina Katcheves
April 8, 2002


REMY YUCEL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600